

Introduced by Senator Ducheny

February 21, 2003

An act to amend Sections 1208, 1212, and 1217 of, and to add Sections 1218.1, 1218.2, 1226.1, and 1226.3 to, the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 937, as introduced, Ducheny. Clinics: licensure and operation.

(1) Under existing law, the State Department of Health Services regulates the licensure and operation of clinics, including community clinics and primary care clinics, as defined. Existing law authorizes the department to provide consulting services upon request to any clinic to assist in the identification and correction of deficiencies.

Existing law requires any person, firm, association, partnership, or corporation desiring a license for a clinic or a special permit for special services to file a verified application with the department containing specified information.

Existing law authorizes the department to issue a license to an applicant only if it meets all requirements for clinic licensure, except that it proposes to operate its clinic out of an existing facility that does not satisfy certain applicable building requirements for the physical plant, provided that (1) the applicant establishes that, where possible and feasible, applicable building requirements have been met, and (2) the applicant submits a specified plan of modernization. Existing law authorizes the Director of Health Services to waive building requirements for primary care clinics when certain conditions are satisfied.

This bill would revise provisions relating to the licensure and operation of clinics, including authorizing the department to charge a



reasonable fee for the above consulting services, not to exceed \$100 per hour.

This bill would provide that an application is not required where a primary care clinic adds a service other than a special service, or modifies an existing primary care clinic site, but would require the clinic to notify the department of the changes in service or physical plant.

This bill would require, rather than authorize, the department to issue a license to a primary care clinic that meets specified building requirements. The bill would provide that a clinic's submission of a signed statement from a licensed architect, local building department, or general contractor certifying the clinic's compliance with applicable building standards shall be deemed satisfactory evidence to the department for purposes of licensure under the above circumstances.

This bill would also require, rather than authorize, the director to waive building requirements for primary care clinics when specified conditions are satisfied. The bill would require primary care clinics to conform to minimum construction standards of adequacy and safety for the physical plant, under the exclusive jurisdiction of the local building department.

This bill would authorize a primary care clinic that has held a valid, unrevoked, and unsuspended license for at least 5 years to apply for and receive a license to establish an affiliate clinic, without first conducting an initial onsite survey, in accordance with criteria set forth by the bill.

This bill would require the department to issue a single consolidated license to a primary care clinic meeting specified requirements that includes more than one physical plant maintained and operated on separate premises. This bill would require a community clinic to comply with specified state requirements for public health protection for clinic personnel and volunteers. The bill would also prohibit the department from requiring a primary care clinic to utilize a registered nurse, absent a determination by the professional director of the clinic that nursing services are required. The bill would also prohibit the department from taking specified regulatory, policy, or enforcement actions regarding nurses working in a primary care clinic without the written concurrence of the Board of Registered Nursing.

(2) Under existing law, violation of the provisions relating to clinics is a misdemeanor.



By imposing new requirements on the licensure and operation of clinics, this bill would create new crimes, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California's primary care clinics are essential partners with
4 the state in providing a health care safety net for underserved,
5 uninsured, and underinsured populations in a cost-effective
6 manner.

7 (b) California's primary care clinics generate significant
8 savings to the state and to local communities by providing primary
9 and preventive care that responds to patients' needs before medical
10 problems become serious or life-threatening, and by reducing the
11 reliance of patients, including the uninsured and underinsured, on
12 costly emergency room care, inpatient treatment and specialty
13 care.

14 (c) Primary care clinics operate most similarly to private
15 doctors' offices, but are required to comply with complicated,
16 burdensome regulations more suited to hospitals, skilled nursing
17 facilities, and other facilities intended to meet the 24-hour care
18 needs of medically fragile patients.

19 (d) The need for primary care clinics is growing dramatically
20 due to the continuing increase of uninsured and underinsured
21 patients in California, an escalating unemployment rate, and a
22 severely depressed economy.

23 (e) The current system of licensing primary care clinics is out
24 of step with contemporary health care delivery systems, and
25 results in a significant waste of taxpayer and community resources
26 that could otherwise be devoted to patient care.

(f) Administrative streamlining of the licensure of new and continuing primary care clinics will result in substantial cost savings to the state and improved access to health care for underserved populations.

SEC. 2. Section 1208 of the Health and Safety Code is amended to read:

1208. (a) The ~~state~~ department may provide consulting services upon request to any clinic to assist in the identification or correction of deficiencies ~~or the upgrading of the quality of care provided by the clinic~~ to ensure that a high quality of care is provided by the clinic.

(b) The department may charge a reasonable fee for the services described in subdivision (a), not to exceed one hundred dollars (\$100) per hour. Under no circumstances shall the department require a clinic to use the consulting services authorized by this section.

SEC. 3. Section 1212 of the Health and Safety Code is amended to read:

1212. Any person, firm, association, partnership, or corporation desiring a license for a clinic or a special permit for special services under the provisions of this chapter, shall file with the ~~state~~ department a verified application on forms prescribed and furnished by the ~~state~~ department, containing the following:

(a) Evidence satisfactory to the ~~state~~ department that the applicant is of reputable and responsible character. If the applicant is a firm, association, partnership, trust, corporation, or other artificial or legal entity, like evidence shall be submitted as to the members, partners, trustees or shareholders, directors, and officers thereof and as to the person who is to be the administrator of, and exercise control, management, and direction of the clinic for which application is made.

(b) If the applicant is a partnership, the name and principal business address of each partner, and, if any partner is a corporation, the name and principal business address of each officer and director of the corporation and name and business address of each stockholder owning 10 percent or more of the stock thereof.

(c) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation, and where the applicant is a stock corporation, the name and

1 principal business address of each stockholder holding 10 percent
2 or more of the applicant's stock and, where any stockholder is a
3 corporation, the name and principal business address of each
4 officer and director of the corporate stockholder.

5 (d) Evidence satisfactory to the ~~state~~ department of the ability
6 of the applicant to comply with the provisions of this chapter and
7 rules and regulations promulgated under this chapter by the ~~state~~
8 department.

9 (e) The name and address of the clinic, and if the applicant is
10 a professional corporation, firm, partnership, or other form of
11 organization, evidence that the applicant has complied with the
12 requirements of the Business and Professions Code governing the
13 use of fictitious names by practitioners of the healing arts.

14 (f) The name and address of the professional licentiate
15 responsible for the professional activities of the clinic and the
16 licentiate's license number and professional experience.

17 (g) The class of clinic to be operated, the character and scope
18 of advice and treatment to be provided, and a complete description
19 of the building, its location, facilities, equipment, apparatus, and
20 appliances to be furnished and used in the operation of the clinic.

21 (h) Sufficient operational data to allow the ~~state~~ department to
22 determine the class of clinic that the applicant proposes to operate
23 and the initial license fee to be charged.

24 (i) Any other information as may be required by the ~~state~~
25 department for the proper administration and enforcement of this
26 chapter, including, but not limited to, evidence that the clinic has
27 a written policy relating to the dissemination of the following
28 information to patients:

29 (1) A summary of current state laws requiring child passenger
30 restraint systems to be used when transporting children in motor
31 vehicles.

32 (2) A listing of child passenger restraint system programs
33 located within the county, as required by Section 27360 or 27362
34 of the Vehicle Code.

35 (3) Information describing the risks of death or serious injury
36 associated with the failure to utilize a child passenger restraint
37 system.

38 (j) Applicants for a license or special permit covering a project
39 within the meaning of Section 127170 shall submit a copy of a
40 certificate of need as required by the ~~state~~ department.

1 (k) (1) No application is required where a licensed primary
2 care clinic adds a service that is not a special service, as defined
3 in Section 1203, or any regulation adopted thereunder, or remodels
4 or modifies an existing primary care clinic site. However, the clinic
5 shall notify the department of the change in service or physical
6 plant.

7 (2) Where the clinic remodels or modifies its existing physical
8 plant, the notification to the department shall include a signed
9 statement from a licensed architect, a local building department,
10 or a general contractor that certifies that any physical alterations
11 are in compliance with the minimum standards of adequacy, safety,
12 and sanitation of the physical plant, pursuant to subdivision (b) of
13 Section 1217 and that the individual signing the statement is
14 competent to determine that compliance.

15 SEC. 4. Section 1217 of the Health and Safety Code is
16 amended to read:

17 1217. (a) An applicant for a license to operate a primary care
18 clinic, as specified in subdivision (a) of Section 1204, ~~which~~ that
19 meets all requirements for licensure under this chapter, except that
20 it proposes to operate its clinic out of an existing facility that does
21 not satisfy all of the applicable building requirements for the
22 physical plant, other than fire and life safety requirements, ~~may~~
23 shall be issued a license by the state department if ~~(1) the~~ both of
24 the following requirements are met:

25 (1) The applicant establishes, by evidence satisfactory to the
26 state department, that, where possible and feasible, the applicable
27 building requirements have been met, ~~and (2) the~~.

28 (2) The applicant submits a plan of modernization acceptable
29 to the state department, ~~which~~ that sets forth the proposed changes
30 to be made, during a period not to exceed three years from the date
31 of initial licensure, to bring the applicant's facility into substantial
32 conformance with applicable building requirements. ~~Failure~~

33 (b) Evidence that shall automatically be deemed to be
34 satisfactory to the department for purposes of subdivision (a), or
35 for purposes of establishing substantial compliance with the
36 minimum standards of adequacy, safety, and sanitation of the
37 physical plant under this chapter, including Section 1226, and
38 Section 1765.140, shall include the primary care clinic's
39 submission of a statement from a licensed architect, a local
40 building department, or a general contractor indicating

1 *compliance with the minimum construction standards described in*
 2 *subdivision (b) of Section 1226, and certifying that the individual*
 3 *signing the letter is competent to determine that compliance.*

4 (c) Failure to complete the plan of modernization as approved
 5 and within the time allowed shall constitute a basis for revocation
 6 or nonrenewal of the applicant's license unless the applicant earlier
 7 applies for and obtains a waiver from the ~~state~~ department. The
 8 director ~~may~~ shall waive building requirements for primary care
 9 clinics where he or she determines ~~that (1) such~~ all of the following
 10 conditions are met:

11 (1) That the requirements cannot be met by an applicant, or that
 12 they can be met only at an unreasonable and prohibitive cost, ~~(2)~~
 13 ~~such~~.

14 (2) That the requirements are not essential to protect the health
 15 and safety of the clinic staff or the public it serves, ~~and (3).~~

16 (3) That the granting of the waiver applied for is in the public
 17 interest.

18 (d) A primary care clinic shall conform to the minimum
 19 construction standards of adequacy and safety for the physical
 20 plant of clinics, as determined under subdivision (b) of Section
 21 1226. Compliance with those requirements is within the exclusive
 22 jurisdiction of the local building department.

23 SEC. 5. Section 1218.1 is added to the Health and Safety
 24 Code, to read:

25 1218.1. A primary care clinic that has held a valid, unrevoked,
 26 and unsuspended license for at least the immediately preceding
 27 five years, and that has no pending action to suspend or revoke its
 28 license, may file an application under this section to establish an
 29 affiliated primary care clinic at an additional site. The department,
 30 upon receipt of the completed application, shall issue a license to
 31 the affiliated clinic, without first conducting an initial onsite
 32 survey, under the following conditions:

33 (a) The existing primary care clinic, which shall be referred to
 34 in this section as the parent clinic, has submitted an application for
 35 licensure and the associated application fee which shall be referred
 36 to in this section as the affiliate clinic.

37 (b) The parent and affiliate clinics' corporate officers are the
 38 same, with the exception of any site providing only dental or
 39 podiatric services and which are permitted to have a dentist or
 40 podiatrist as its professional director.

1 (c) The parent and affiliate clinic are both owned and operated
2 by the same nonprofit organization with the same board of
3 directors.

4 (d) The parent and affiliate clinics' operational policies and
5 procedures are substantially identical.

6 (e) The parent and affiliate clinic both follow substantially the
7 same training, competency testing, and quality assurance
8 standards for health care staff.

9 (f) The parent clinic has submitted evidence to the department
10 establishing compliance with the minimum standards of adequacy,
11 safety, and sanitation of the satellite's physical plant as provided
12 under subdivision (b) of Section 1217.

13 SEC. 6. Section 1218.2 is added to the Health and Safety
14 Code, to read:

15 1218.2. (a) Notwithstanding any other provision of law, the
16 department, upon application of a primary care clinic that meets
17 all the criteria of subdivision (b), and other applicable
18 requirements of licensure, shall issue a single consolidated license
19 to a primary care clinic that includes more than one physical plant
20 maintained and operated on separate premises.

21 (b) The issuance of a single consolidated license shall be based
22 on all of the following criteria:

23 (1) There is a single governing body for all of the clinic sites
24 maintained and operated by the licensee.

25 (2) There is a single administration for all of the clinic sites
26 maintained and operated by the licensee.

27 (3) All policies and procedures for clinic employees apply to all
28 clinic sites. However, it shall not be required for any staff member
29 to perform services at more than one facility.

30 (4) All training, competency testing, and quality assurance
31 standards are identical for all of the clinic sites.

32 (c) In issuing the single consolidated license, the department
33 shall specify the location of each facility, as designated by the
34 applicant. The single consolidated license shall be renewed
35 annually. The initial fee and each annual fee shall be thirty dollars
36 (\$30) per clinic site.

37 (d) A primary care clinic that is issued a single consolidated
38 license pursuant to this section, at its option, may receive from the
39 department a single Medi-Cal program provider number or
40 separate Medi-Cal program provider numbers for one or more of



1 the facilities subject to the single consolidated license. Irrespective
2 of whether the primary care clinic is issued one or more Medi-Cal
3 provider numbers, a rural health clinic or federally qualified health
4 center may file separate cost reports for each facility with the
5 approval of the department, if being reimbursed on a reasonable
6 cost basis.

7 (e) For purposes of preparing the Annual Utilization Report of
8 Primary Care Clinics, the department and the Office of Statewide
9 Health Planning and Development may require reporting of
10 service utilization data separately by each facility of a primary care
11 clinic issued a single consolidated license pursuant to this section.

12 (f) If an individual clinic site fails to comply with the licensing
13 requirements, is issued a identification of deficiencies under
14 Section 1229, or fails to comply with any rule or regulation
15 promulgated by the department, the lack of compliance shall affect
16 only the individual site, and shall not affect the other sites listed on
17 the consolidated license.

18 SEC. 7. Section 1226.1 is added to the Health and Safety
19 Code, to read:

20 1226.1. A community clinic shall comply with department
21 requirements regarding annual health examinations, vaccination,
22 or other public health protections for clinic personnel and
23 volunteers, which shall be no more burdensome than requirements
24 applied to acute care hospitals licensed under Chapter 2
25 (commencing with Section 1250).

26 SEC. 8. Section 1226.3 is added to the Health and Safety
27 Code, to read:

28 1226.3. (a) The department may not require a primary care
29 clinic to utilize a registered nurse unless nursing services are
30 required, as determined in the sole discretion of the professional
31 director of the clinic.

32 (b) No regulation, advisory, policy, or enforcement effort of the
33 department regarding the scope of practice or appropriate
34 assignment of registered nurses, nurse practitioners, certified
35 nurse midwives, nurse anesthetist, or other advanced practice
36 nurses by a primary care clinic shall be implemented without the
37 written concurrence of the Board of Registered Nursing.

38 SEC. 9. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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